

(4) Misusing conservation materials or services.

(5) Adopting a land use or practice during the contract period which tends to defeat the purposes of the program.

(b) *Contract termination as a result of violations.* (1) The participant agrees to forfeit all rights to further cost-sharing payments under a contract and to refund all cost-share payments received if the County ASC Committee with the concurrence of the State ASC Committee, determines that:

(i) There was a violation of the contract during the time the participant had control of the land.

(ii) The violation was of such a nature as to warrant termination of the contract.

(2) The participant shall be obligated to refund all cost-share payments, including those paid to vendors for materials and services.

(c) *Payment adjustments and refunds resulting from violations.* (1) The participant agrees to refund cost-share payments received under the contract or to accept payment adjustments if the County ASC Committee determines and the State ASC Committee concurs that:

(i) There was a violation of the contract during the time the participant had control of the land.

(ii) The nature of the violation does not warrant termination of the contract.

(2) Payment adjustments may include decreasing the rate of the cost share, or deleting from the contract a cost-share commitment, or withholding cost-share payments earned but not paid. The participant who signs the contract may be obligated to refund cost-share payments.

#### Subpart D—Monitoring and Evaluation

##### § 700.40 General program monitoring and evaluation.

(a) *Requirement.* All approved RCWP projects will be monitored in sufficient detail to determine BMP application progress and to generally document water quality improvement trends through the life of the project. This will include, among others, data on BMP installation progress, payments

made, refunds and periodic water quality monitoring for addressing short and long-term trends in water quality.

(b) *Monitoring Report.* A water quality monitoring report will be submitted as a part of the annual progress report. The initial report will include:

(1) A description of water quality monitoring strategy for the area.

(2) Data collection schedule.

(3) Parameters being monitored (and baseline values).

(4) Collection and analytical methods.

(5) A summary of existing data and trends.

Subsequent reports will update the initial data and report any significant changes in water quality land use.

(c) *Program Monitoring Funding.* The project application and the proposed monitoring plan are to include an estimate of the local and State financial and technical support. General monitoring will not be financed with RCWP funds.

##### § 700.41 Comprehensive USDA/EPA joint project water quality monitoring, evaluation, and analysis.

(a) *Requirement.* The Secretary and Administrator, EPA will jointly select a limited number of projects to be comprehensively monitored and evaluated from a list of projects recommended by the NCC. The NCC will develop criteria for selecting the project areas.

(b) *Project Selection.* The NCC will recommend projects for this comprehensive program. The project areas are to be representative of the agricultural and silvicultural nonpoint source pollution problems.

(c) *Plan Development.* After a project is selected for the comprehensive monitoring and evaluation, the SCC is to submit within 90 days, a plan for USDA-EPA review and approval. USDA and EPA will have 30 days for the plan review and approval process.

(d) *Plan Requirements.* In general, the comprehensive monitoring plan will address and include the following:

(1) *Objective.* Define the purpose and scope of the monitoring program and establish clear objectives for each activity proposed.

(2) *Monitoring Strategy.* Define the basic hydrological and meteorological

factors within the proposed RCWP project area and identify the strategy and parameters to be used to identify the changes in water quality attributable to the installation of BMPs. Wherever possible, identify and quantify changes in land use, land use patterns and farming practices that will affect the quantity, quality or timing of nonpoint source pollutants reaching an aquatic system and detail information as to number and location of sampling stations and the frequency of sample collection.

(3) *Socioeconomic Impacts.* Identify the positive and negative impacts on the landowners in the project area and estimate the community or off-site benefits expected of the project if completed as planned.

(4) *Institutional Aspects.* Identify and clearly define the role and responsibility for each participating agency including, where appropriate fiscal and manpower commitments.

(5) *Educational Aspects.* Clearly define the approach(es) to be used to inform and educate individual landowners. Include procedures for periodic evaluation of this effort so the mid-course corrections can be made if needed.

(6) *Quality Assurance.* To insure that the data collected is usable to make National projections, a quality assurance program must be included that is consistent with that of the EPA Region within which the project is located.

(7) *Data Storage.* The data collected on comprehensive monitoring projects must be available to USDA and EPA RCWP user groups.

(e) *Reporting.* Reports for these projects are to be made at least annually to the NCC based on guidance sent to the SCC by the Administrator, FSA.

(f) *Funding.* Funding for the comprehensive monitoring will be provided from RCWP funds and other authorizations.

#### **§ 700.42 Program evaluation.**

(a) The RCWP will be evaluated annually by the USDA. The evaluation will be based on the reports provided in these regulations and on special studies undertaken by USDA or EPA as part of the RCWP program.

(b) The USDA Deputy Under Secretary for International Affairs and

Commodity Program will have the responsibility for coordinating the program evaluation and preparing an annual report for transmittal to the Secretary of Agriculture and the Administrator of EPA. The Deputy Assistant Secretary for Natural Resources and the Director of Economics, Policy Analysis and Budget, USDA, and the Assistant Administrator for Water and Waste Management, EPA will assist in this effort.

#### **§ 700.43 Public benefits when installing BMP's.**

All BPM's implemented under this program shall be in compliance with regulations promulgated under part 799 on environmental quality and related environmental concerns or similar regulations issued by a technical agency. Persons responsible for any aspect of performing BMPs shall carry out their responsibilities in such a way as to promote public benefits:

(a) By improving or preserving environmental quality and ecological balance.

(b) By preventing or abating pollution and other environmental degradation.

(c) Benefiting the community by means such as preserving open space or enhancing the appearance of the area.

(d) Benefiting wildlife and other desirable life forms.

(e) Preserving historic, archaeological, or scenic sites, wetlands, ecologically critical areas and prime farmland.

(f) Avoiding the creation of hazards to persons or animals.

(g) Avoiding actions that may adversely affect an endangered or threatened species and flood plains.

### **PART 701—CONSERVATION AND ENVIRONMENTAL PROGRAMS**

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